IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 33910 of 2006(J)

PETITIONER:

P.ANIL KUMAR, ANIL NIVAS,
MUTHUKULAM SOUTH P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.N.RADHAKRISHNAN

RESPONDENTS:
----

1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   HEALTH & FAMILY WELFARE DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DIRECTOR OF HEALTH SERVICES,**
   THIRUVANANTHAPURAM.

3. **THE DISTRICT MEDICAL OFFICER (HEALTH),**
   ALAPPUZHA DISTRICT.

4. **THE DISTRICT OFFICER,**
   KERALA PUBLIC SERVICE COMMISSION,
   ALAPPUZHA.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC for R4
BY GOVT.PLEADER SRI. P. NANDAKUMAR for R1 to R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007 ALONG WITH WPC NO.13319 OF 2006 AND WPC NO. 2701 OF 2006,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGEMENT IN WP(C) NO.16096/04 DTD. 21/07/2004.

EXT.P2: COPY OF THE AFFIDAVIT FILED BY DIRECTOR OF HEALTH SERVICES IN CONT.CASE NO.988/05.

EXT.P3: COPY OF THE JUDGEMENT DTD. 14/12/2005 IN WP(C) NO. 29384/05.

EXT.P4: COPY OF THE ORDER IN WP(C) NO.37010/04 DTD. 21/12/2004.

EXT.P5: COPY OF THE G.O.(MS) 129/06 H & FWD DTD. 15/07/2006.

EXT.P6: COPY OF THE AFFIDAVIT FILED BY THE DISTRICT MEDICAL OFFICER (HEALTH) ALAPPUZHA IN C.C.(C) NO.1006/06.

/TRUE COPY/

KSS

K.K. DENESAN, J.

= = = = = = = = = = = = = = = = =
W.P.(C) Nos.33910, 2701 &
13319 OF 2006
= = = = = = = = = = = = = = = = =

Dated this the 26th February, 2007

J U D G M E N T

The petitioners were included in the rank list published by the P.S.C. for appointment to the post of Junior Health Inspector Grade II in the Health Services Department. The rank list in the normal course ought to have expired on 19-12-2004. But the Commission extended the life time of the list upto 31-12-2004. It is not disputed that against all vacancies reported to the Commission, candidates were advised. A batch of writ petitions were, however, filed contending for the position that vacancies had in fact arisen during the currency of the list, but due to lethargy and indifference on the part of the respondents, those vacancies were not reported. A learned Judge of this Court considered certain writ petitions filed by aggrieved persons in 2004 and 2005 along with a contempt of court case filed calling upon the respondents to answer the charge that they failed to comply with the orders of this Court. This Court found

that the vacancies had occurred before the expiry of the list but the petitioners in those writ petitions lost their chances to get appointment due to the omissions committed by the appointing authority in reporting the vacancies promptly. Observing that justice shall not be denied to the petitioners in those writ petitions who had taken steps diligently and promptly to get their grievance redressed, this Court issued appropriate directions. Since the list had already expired this Court did not direct the P.S.C. to advise candidates from the list. At the same time, in order to grant reliefs to the petitioners therein a direction was issued to the Government to invoke Rule 39 of K.S. & S.S.R. so that reliefs can be granted to the aforesaid candidates, by bypassing the procedure to advise candidates and thereafter to make appointments. It is not disputed that candidates who came within the range of eligibility going by their ranks were appointed invoking Rule 39 of K.S. & S.S.R.

2. These petitioners, admittedly, did not approach this Court along with the aforesaid candidates who got the benefit of Ext. P3 judgment rendered by

this Court on 14-12-2005. It appears that on coming to know that some of the candidates who were included in the same list along with them got the benefit of appointment by the interference of this Court, these writ petitions have been filed.

3. Counter affidavits have been filed by the P.S.C. as also by the appointing authority denying the claim made by the petitioners for appointment placing reliance on a ranked list which expired on 31-12-2004.

4. Learned counsel for the petitioner invites my attention to Ext. P3 and submits that taking note of the vacancy position which has been found and recorded in Ext. P3 by the learned Judge, the respondents cannot contend for the position that these petitioners are not entitled for appointment in the same manner as those covered by Ext. P3 judgment.

5. In my opinion the case of the petitioners has become weak by lapse of time. If it was only a question of resolving the dispute relating to vacancy position, I would have embarked on such an enquiry and determined the rights asserted by the petitioners. But, I find from the very judgment which has been

relied on by the petitioners, that is Ext. P3, that the learned Judge had cautiously incorporated the rider that the liberty or concession granted to the petitioners in Ext. P3 judgment shall be confined to them only and that none who would pursue their claims after the expiry of the ranked list will be given similar benefits.

6. I think, for the above reason the petitioners do not appear to be correct in their contention that they are entitled to a similar verdict, merely on the ground that their names also found a place in the very same rank list. The petitioners have knocked at the doors of this Court very late, and on that ground alone, reliefs will have to be declined to them. Accordingly these writ petitions are dismissed.

K.K. DENESAN
JUDGE

jan/